IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2157 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT INSECTICIDES LTD & 2 - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

M/S TRIVEDI & GUPTA for Applicant(s) : 1 - 3.
MR.HL JANI APP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 11/06/2007

ORAL JUDGMENT

1. The petitioner-Company along with its Managing Director and Chief Manager have approached this Court under the provisions of

Section 482 of the Code of Criminal Procedure, 1973 for the relief of setting aside the complaint dated 11.02.1994 in Criminal Case No.982 of 1994 filed by Government Labour Officer as also the proceedings therein. During the pendency of the present proceedings, no affidavit-in-reply has come on record.

2. Bare reading of the impugned complaint at Annexure-A shows that a workman claiming to be employed as supervisor had apprehended that the petitioners were proposing to take work of a clerk from him. The workman concerned appears to have made a representation on that basis in the year 1991 even as, according to his appointment order dated 20.03.1985, he was appointed as a Trainee Clerk-Canteen and confirmed only as a Clerk. On the basis of the representation of the workman concerned, the Government Labour Officer also appears to have issued notice regarding violation of the provisions of Section 9-A of the Industrial Disputes Act, 1947; again only

reiterating the apprehension that the petitioners were intending to take work of a clerk from the workman concerned. Even after four years of the notice of the complainant, the allegation in the complaint filed in the year 1994 has remained the proposed or intended action of the petitioners. Thus, in short, the complaint is based upon mere apprehension and actual change in the condition of service is not even alleged. Therefore, the impugned complaint and the proceedings, if any, based thereon are devoid of any factual basis and amounts to an abuse of the process of Court. And hence, it being a fit case for exercising the extraordinary powers of this Court under Section 482 of the Code of Criminal Procedure, the impugned complaint in Criminal Case No.982 of 1994 pending in the Court of learned Judicial Magistrate First Class at Ankleshwar along with the proceedings therein are hereby quashed. Rule is made absolute with no order as to costs.

(D.H.WAGHELA, J.)

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